

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

JOE DASILVA, JR.,

Plaintiff,

-vs-

Case No: 2:20-cv-11358  
Hon. Mark A. Goldsmith  
Magistrate Judge Anthony P. Patti

MARK ESPER, individually and in  
his official capacity as Secretary of  
the U.S. Department of Defense;  
SEAN EDWARDS, individually and  
in his official capacity as Chief of  
U.S. Army Detroit Arsenal Fire  
Division; and MARTIN POTTER,  
Individually and in his official  
capacity as Assistant Chief of U.S.  
Army Detroit Arsenal Fire Division,

Defendants.

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ALTMAN  
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**DEFENDANT'S MOTION TO DISMISS**

Defendant Martin Potter, by and through his counsel, Bogas & Koncius P.C., move to dismiss the Complaint as against him where Plaintiff fails to state a claim upon which relief may be granted and should thusly be dismissed with prejudice for the reasons set forth more fully in the brief in support of this Motion filed by the United States Attorney's Office on behalf of the Federal Defendants in this matter. (Dkt. # 26)

Pursuant to Local Rule 7.1, Defendant attempted to seek concurrence on this motion on February 17, 2021, but such concurrence was denied.

Respectfully submitted,

BOGAS & KONCIUS, P.C.  
Attorneys for Defendant  
Martin Potter

By: /s/ Brian E. Koncius  
Brian E. Koncius (P69278)  
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248.502.5000

Dated: February 18, 2021

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**DEFENDANT'S BRIEF IN SUPPORT OF HIS MOTION TO DISMISS**

Defendant Martin Potter concurs with and relies upon the Brief filed by the Federal Defendants in this matter and adopts its arguments as they relate to him as if fully set forth herein. (Dkt. # 26)

For the reasons stated therein, the Complaint fails to state a claim upon which relief may be granted and should thusly be dismissed with prejudice.

Respectfully submitted,

BOGAS & KONCIUS, P.C.  
Attorneys for Defendant  
Martin Potter

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Dated: February 17, 2021

**CERTIFICATE OF SERVICE**

STATE OF MICHIGAN     )  
  ) SS  
COUNTY OF OAKLAND    )

BRIAN E. KONCIUS, hereby certify that on February 18, 2021 I electronically filed the foregoing documents with the Clerk of the Court using the ECF System which will send notification of such filing to the following: Keith Altman (81702) and Lynn M. Dodge (P38136).

/s/BRIAN E. KONCIUS  
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